

REMARKS

Claims 1-2, 4-10, 12-18, 20-27 and 29 are rejected under 35 U.S.C. §102(e) as being anticipated by *Chari* (U.S. Patent 6,046,742).

Claims 3, 11, 19 and 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants have amended independent claims 1, 9, 17 and 25 to include the allowable subject matter of their respective dependent claims 3, 11, 19 and 28. Thus, claims 3, 11, 19 and 28 are cancelled and claims 1, 9, 17 and 25, along with the claims dependent therefrom are submitted to be allowable.

New claims 30 and 31 are presented herewith and are submitted to be allowable over *Chari*.

Claims 30 and 31 include:

30. A method of providing acoustic management in a system for handling information comprising: providing a computing device including a processor and a storage; receiving from a user, instructions regarding a selected acoustic level via an interface; and adjusting an operational level of at least one subsystem of the computing device to achieve the selected acoustic level including adjusting a seek time of a media drive of the computing device.
31. An acoustic management system for use in a system for handling information comprising: means for storing, handling and computing information; means for receiving from a user, instructions regarding a selected acoustic level; and

means for adjusting an operational level of at least one subsystem of the means for computing to achieve the selected acoustic level, said means for adjusting including a seek time of a media drive of the means for computing.

Applicants submit that claims 30 and 31 are not anticipated by the *Chari* reference.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicants submit that claims 30 and 31 are not obvious in view of the *Chari* reference.

As the PTO recognizes in MPEP §2142:

...The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the Examiner does not produce a *prima facie* case, the Applicant is under no obligation to submit evidence of nonobviousness....the Examiner must step backward in time and into the shoes worn by the hypothetical 'person of ordinary skill in the art' when the invention was unknown and just before it was made....The Examiner must put aside knowledge of the Applicant's disclosure, refrain from using hindsight, and consider the subject matter claimed 'as a whole.'"

In view of the above, it is respectfully submitted that remaining claims 1, 2, 4-10, 12-18, 20-27 and 29-31 are in condition for allowance. Accordingly, an early Notice of Allowance is courteously solicited.

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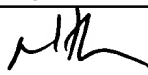
Respectfully submitted,



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